

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Babco Foods International, LLC,
Plaintiff,

v.

Rahein Incorporation,
Defendant.

Civil Action No. 21-cv-10030

NOTICE OF MOTION TO FILE AN
AMENDED COMPLAINT TO ADD
DEFENDANT

Plaintiff Babco Foods International, LLC (hereinafter as “Plaintiff”) seeks to amend and supplement the Complaint to add Gopaljee Dairy Foods Private Limited (hereinafter as “Gopaljee”) as an additional Defendant due to Gopaljee’s involvement in the claims alleged in the Complaint.

BACKGROUND

Plaintiff filed a Complaint in this case on April 22, 2021, bringing various claims under the Lanham Act against Rahein Incorporation (hereinafter as “Defendant”) for distributing Indian food products containing trade dress that is confusingly similar to Plaintiffs’ trade dress and for distributing Indian food products including a trademark (with the wording “Ananda Anand karo!”) that is confusingly similar to Plaintiffs’ U.S.-federally registered trademarks (e.g., incontestable U.S. Federal Trademark Registration No. 2966671, U.S. Federal Trademark Registration No. 5784850, U.S. Federal Trademark Registration No. 4992483, and U.S. Federal Trademark Registration No. 5785077) including the word “ANAND.”

Gopaljee Dairy Foods Private Limited (hereinafter as “Gopaljee”) manufactures Indian food products under the name “Ananda Anand karo!” and supplies these products to distributors, such as Defendant. Gopaljee is a company organized under the laws of India and has a principle place of business at Ananda House, H-112 Pragati Tower Sector-63, Noida-201307 Uttar Pradesh India. Gopaljee has been renamed to Ananda Dairy. Ananda Dairy is a company organized under the laws of India and has a principle place of business at H-112, Sector - 63, Noida-201 301, U.P.

ARGUMENT

Federal Rule of Civil Procedure 15(d) allows for the filing of supplemental pleadings to allege new facts that occur after the filing of original pleadings. Rule 15(d) states that “[o]n motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event that happened after the date of the pleading to be supplemented.” Fed. R. Civ. P. 15(d). Rule 15(d) “is intended to give district courts broad discretion in allowing supplemental pleadings” to promote “judicial economy and convenience.” *Keith v. Volpe*, 858 F.2d 467, 473 (9th Cir. 1988); *see also San Luis & Delta-Mendota Water Auth. v. U.S. Dep’t of Interior*, 236 F.R.D. 491, 496 (E.D. Cal. 2006) (“Leave should be freely given”). Supplemental pleadings should be allowed as a matter of course “unless some particular reason for disallowing them appears.” *Keith*, 858 F.2d at 473 (citation omitted).

In the case at bar, Plaintiff seeks to amend and supplement their Complaint in order to add an additional Defendant who contributed to the harm suffered by Plaintiff. Specifically, Plaintiff seeks to amend and supplement their Complaint in order to add Gopaljee as a Defendant

since Gopaljee is manufacturing Indian food products bearing trade dress and a trademark that is confusingly similar to Plaintiffs' trade dress and U.S.-federally registered trademarks.

The facts presented in the original Complaint support addition of Gopaljee as a Defendant. Therefore, as a matter of judicial economy and convenience, it is appropriate for Gopaljee to be added as a Defendant to this instant case, rather than claims be brought against Gopaljee as a separate action.

CONCLUSION

For all of the reasons above, Plaintiff respectfully requests the Motion to File an Amended Complaint to Add Defendant be granted.

Dated: July 28, 2021

Respectfully submitted,

/s/ Howard J. Schwartz
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Richard Gearhart, Esq.
David Postolski, Esq.
Ashley Sperbeck, Esq.

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Attorneys for Plaintiff

CERTIFICATION OF SERVICE

I hereby certify that on July 28, 2021, I electronically filed the foregoing Motion to File an Amended Complaint to Add Defendant using the CM/ECF system, which will send notification of this filing to the attorneys of record and all registered participants.

s/ Howard J. Schwartz
Howard J. Schwartz, Esq.
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